

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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| APPLICATION OF FIRST KENTUCKY CELLULAR) | |
| CORP., A DELAWARE CORPORATION D/B/A) | |
| CELLULAR TELEPHONE COMPANY OF KENTUCKY,) | |
| FOR THE ISSUANCE OF A CERTIFICATE OF) | |
| PUBLIC CONVENIENCE AND NECESSITY TO) | |
| PROVIDE DOMESTIC PUBLIC CELLULAR RADIO) | CASE NO. |
| TELECOMMUNICATIONS SERVICE TO THE) | 91-247 |
| PUBLIC IN THE KENTUCKY RURAL SERVICE) | |
| AREA WHICH INCLUDES BELL, CLAY, HARLAN,) | |
| KNOX, LESLIE, AND WHITLEY COUNTIES IN) | |
| KENTUCKY, FOR APPROVAL OF FINANCING,) | |
| AND FOR ESTABLISHMENT OF INITIAL RATES) | |

O R D E R

This matter arising upon petition of First Kentucky Cellular Corp. d/b/a Cellular Telephone Company of Kentucky ("First Kentucky Cellular") filed October 16, 1991 pursuant to 807 KAR 5:001, Section 7, for confidential protection of its Revised Business Plan (Exhibit 55); Vendor Financing Term Sheet and System Sale Agreement (Exhibit 56); Summary of Financing, Loan and Security Agreement, and Pledge and Escrow Agreement (Exhibit 57); Purchase Price Note and Working Capital Note (Exhibit 58); Projected Loan Draw Down and Repayment Schedule (Exhibit 59); and Real Estate Sale and Purchase Agreement (Exhibit 61) on the grounds that disclosure of the information is likely to cause First Kentucky Cellular competitive injury, and it appearing to this Commission as follows:

First Kentucky Cellular has applied for a Certificate of Public Convenience and Necessity to provide domestic public cellular telecommunications service to the public in its Rural Service Area. In support of its application, First Kentucky Cellular has filed information which it seeks to protect as confidential. First Kentucky Cellular contends that disclosure of the information contained in the exhibits is likely to cause it competitive injury and is thereby entitled to protection.

The information sought to be protected is generally not known outside of First Kentucky Cellular and is not known by its employees except on a need-to-know basis. First Kentucky Cellular seeks to protect and preserve the confidentiality of the information through all appropriate means.

Under 807 KAR 5:001, Section 7, information is protected as confidential when it is established that disclosure is likely to cause substantial competitive harm to the party from whom the information was obtained. In order to satisfy this test, the party claiming confidentiality must demonstrate actual competition and a likelihood of substantial competitive injury if the information is disclosed. Competitive injury occurs when disclosure of the information gives competitors an unfair business advantage.

The cellular telephone market is a competitive industry, and First Kentucky Cellular will have competition in the area in which it proposes to construct its system described in its application for a Certificate of Public Convenience and Necessity. The information sought to be protected could be used by a competitor

to gain an unfair business advantage by structuring its rates and marketing its services in a manner which would preclude First Kentucky Cellular from competing effectively for customers. Therefore, disclosure of the information is likely to cause First Kentucky Cellular competitive injury and the information should be protected as confidential.

This Commission being otherwise sufficiently advised,


IT IS ORDERED that:


1. The Revised Business Plan; Vendor Financing Term Sheet and System Sale Agreement; Summary of Financing, Loan and Security Agreement, and Pledge and Escrow Agreement; Purchase Price Note and Working Capital Note; Projected Loan Draw Down and Repayment Schedule; Real Estate Sale and Purchase Agreement, which First Kentucky Cellular has petitioned be withheld from public disclosure, shall be held and retained by this Commission as confidential and shall not be open for public inspection.

2. First Kentucky Cellular shall, within 10 days of the date of this Order, file an edited copy of the exhibits with the confidential material obscured for inclusion in the public record, with copies to all parties of record.

Done at Frankfort, Kentucky, this 8th day of November, 1991.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman

Commissioner

ATTEST:


Executive Director